

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

AARON ALVAREZ-VILLASENOR,

Plaintiff,

v.

LIZA ROHRER, et al.,

Defendants.

NO: 12-CV-5107-TOR

ORDER GRANTING DEFENDANTS'
MOTION FOR PROTECTIVE ORDER

BEFORE THE COURT is Defendants' Motion for Protective Order (ECF No. 22). This matter was submitted for consideration without oral argument. The Court has reviewed the briefing and the record and files herein, and is fully informed.

BACKGROUND

In November 2011, *pro se* Plaintiff Aaron Alvarez-Villasenor was removed from the prison work camp at Coyote Ridge Correctional Center and placed in a higher custody facility due to an Immigration and Customs Enforcement ("ICE") detainer. ECF No. 8-1. In August 2012 Plaintiff filed a Complaint alleging

1 violations of his civil rights under 42 U.S.C. § 1983. ECF No. 1. Plaintiff alleges
2 that his removal from the work camp, and the prohibition on his participation in
3 vocational work programs due to the ICE detainer, is discriminatory and
4 unconstitutional. On April 26, 2013, Defendants filed a 12(b)(6) Motion to
5 Dismiss for Failure to State a Claim, in which they raise the issue of qualified
6 immunity. ECF No. 20.

7 Defendants were served with Plaintiff's First Set of Interrogatories on April
8 10, 2013. The First Set of Interrogatories consisted of forty-four interrogatories for
9 Defendant Jeffrey Uttecht and twenty-five interrogatories for the five other
10 Defendants. On April 24, 2013, the parties discussed the postponement of
11 discovery until the Court ruled on the Motion to Dismiss; but failed to reach a
12 resolution. ECF No. 22-1. Presently before the Court is Defendants' motion for a
13 protective order to stay discovery pending the Court's decision on their motion to
14 dismiss.

15 DISCUSSION

16 For good cause, the court may deny or limit discovery "to protect a party or
17 person from annoyance, embarrassment, oppression, or undue burden or
18 expense...." Fed. R. Civ. P. 26(c); *see also Little v. City of Seattle*, 863 F.2d 681,
19 685 (9th Cir.1988). The Court has broad discretion to stay discovery while a
20 dispositive motion is pending. *See, e.g., Orchid Biosciences, Inc. v. St. Louis*

1 *University*, 198 F.R.D. 670, 672 (S.D. Cal. 2001). The party requesting a
2 protective order bears the burden of showing good cause. *Rivera v. NIBCO, Inc.*,
3 364 F.3d 1057, 1063 (9th Cir. 2004). However, the Supreme Court has repeatedly
4 held that when qualified immunity is raised as a defense by government officials,
5 discovery should be stayed until the threshold issue of immunity is resolved.
6 *Harlow v. Fitzgerald*, 457 U.S. 800, 816-818 (1982) (“bare allegations of malice
7 should not suffice to subject government officials either to the costs of trial or to
8 the burdens of broad-reaching discovery”); *see also Anderson v. Creighton*, 483
9 U.S. 635, 651 (1987).

10 Defendants raised the defense of qualified immunity in their 12(b)(6) motion
11 to dismiss. *See* ECF No. 20. Plaintiff did not respond to the instant motion. Thus,
12 pursuant to Local Rule 7.1, Plaintiff’s failure to timely file a memorandum of
13 points and authorities in opposition to this motion will be considered by the Court
14 as consent by Plaintiff to the entry of an Order adverse to him. The Court finds
15 good cause to stay all discovery, pending the Court’s ruling on Defendants’ motion
16 to dismiss.

17 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 18 1. Defendants’ Motion for Protective Order (ECF No. 22) is **GRANTED**.
- 19 2. All discovery in this matter is hereby **STAYED** pending this Court’s ruling
20 on Defendants’ Motion to Dismiss.

1 The District Court Executive is hereby directed to enter this Order and
2 furnish copies to Plaintiff and to counsel for Defendants.

3 **DATED** May 29, 2013.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
United States District Judge